

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 329

CASE NO. 80-10P

JANUARY 8, 1981

Pursuant to notice, a public hearing of the D.C. Zoning Commission was held on November 24, 1980. At this hearing session the District of Columbia Zoning Commission considered an application from The Milton Companies, Inc., for first stage approval of a planned unit development(PUD), and a related map amendment from R-3 to D/C-2-A.

FINDINGS OF FACT

1. The site is located at 2308-2328 Wisconsin Avenue, N.W. and comprises 43,380 square feet. It includes Record Lots 538, 422, 421, 388, and 387 in Square 1300. The site extends through the square with a Wisconsin Avenue frontage of 180.87 feet and a 37th Street frontage of 109.80 feet.
2. The site is currently split-zoned with 28,082 square feet in the D/C-2-A District fronting on Wisconsin Avenue and 15,298 square feet in the R-3 District fronting on 37th Street.
3. The C-2-A District permits a community business center of medium density with a maximum floor area ratio of 2.5, with non-residential uses limited to 1.5 FAR, a fifty foot height limit, and a maximum lot occupancy of sixty percent for residential uses. The Diplomatic(D) District allows for the location of chanceries as a permitted use after approval by the Board of Zoning Adjustment. Under Section 7501 of the D.C. Zoning Regulations, the FAR guideline for a PUD in the C-2-A zone is 3.0, of which not more than 2.0 may be non-residential. The building height guideline is sixty-five feet.
4. The R-3 District permits row dwellings with a minimum lot area of 2,000 square feet, a minimum lot width of twenty feet, a maximum lot occupancy of sixty percent and a maximum height of three stories and forty feet.
5. To the north, east, southeast, and south of the Wisconsin Avenue portion of the site is D/C-2-A zoning. To the northeast of the Wisconsin Avenue portion of the site is R-1-B zoning. To the north, northwest, west, southeast, and south of the 37th Street portion of the site is R-3 zoning.

6. The applicant proposes a mixed use development, with an office/retail component of 86,076 square feet and a residential component of sixty-four apartments including four studio, three two-bedroom and fifty-seven one-bedroom units. There will be provision for 204 parking spaces within 2½ underground levels and two loading berths. The project is comprised of three attached but distinct building components. The office component is six stories high, excluding penthouse, and fronts Wisconsin Avenue. It has a height of sixty-five feet. The first residential component, a midrise seven story building at the center of the site, varies in height from fifty-five feet to fifty-eight feet, and includes retail space on the first floor. The second residential component is a three and four story walk-up apartment building fronting on 37th Street and varying in height from thirty-three to thirty-eight feet. The thirty-three feet is measured from the sidewalk of the 37th Street. The three building components will be connected by an attractively landscaped open court system linked by a pedestrian passage from 37th Street to Wisconsin Avenue.
7. The existing structures on the site include the Calvert Liquor Store building, the marquee of the old Calvert Theatre, which has been demolished and Leonard's of Wisconsin Avenue, a beauty parlor. These structures are essentially one story commercial buildings. The balance of the site is paved with asphalt and is used as a surface parking lot. The R-3 portion of the parking lot operates with the approval of the Board of Zoning Adjustment.
8. The site is a through-lot, "L" in shape. It slopes upward from a Wisconsin Avenue elevation of 266 feet to a height at the middle of the site of 272 feet. The site is relatively level for the first 150 feet west of Wisconsin Avenue and then slopes from 272 feet downward to a low of 256 feet at the curb of 37th Street.
9. The site is located in a commercial strip on Wisconsin Avenue. To the west of the site are row houses along 37th Street in the Glover Park neighborhood. Across Wisconsin Avenue are a variety of older commercial structures, and some new office buildings. Beyond those structures are the Naval Observatory Circle and the Guy Mason Recreation Center.
10. The applicant proposes to develop the property on a single lot of record. All services such as trash collection, snow removal, and maintenance of the court areas will be managed and paid for by the applicant.
11. The applicant proposes to construct the sixty-four rental housing units under the U.S. Department of Housing and Urban Development's Section 221(d)(4) Mortgage Insurance Program. If that program is unavailable for this site, the applicant is prepared to seek alternative financing for a rental project. If the alternative financing is unavailable, and the project could not be built as a

rental project, the applicant will sell the apartment units as condominium units. The applicant is prepared, in this event, to set aside twenty percent of the sixty-four residential units for sale at approximately half the market value to moderate income families.

12. The subject site, if developed as a matter-of-right would yield 42,117 square feet of commercial space and thirty-two condominiums on the D/C-2-A zoned portion of the site, and five townhouses on 37th Street in the R-3 zoned portion of the site. Approximately 112 parking spaces would be required under a matter-of-right plan.
13. The effect of the change from R-3 to D/C-2-A, as a PUD, would be to allow commercial uses at an FAR of 2.0 which otherwise would not be permitted, and change the residential FAR from 0.6 to a maximum of 3.0. In terms of gross floor area applying the maximum use mix, either as residential, commercial or both, the gross floor area of all residential uses would be increased from approximately 9,178 to 45,894 square feet or, a 36,716 square foot increase. All commercial would be increased from zero to 30,596 square feet and a mixed commercial and residential development having the maximum commercial gross floor area would allow 30,596 square feet of commercial and 15,298 square feet for residential for a total gross floor area of approximately 45,894 square feet.
14. Milton Schneiderman, the applicant, testified that the proposed PUD will result in the efficient and economical utilization of land, attractive urban design, provide desired public space, improve circulation and adequately assure the protection of the public health, welfare and convenience. The Commission so finds. The applicant also requested FAR credits, or exclusion from the FAR calculation, of: (a) 5,049 square feet for provision of a pedestrian walkway from 37th Street to Wisconsin Avenue; (b) 1,043 square feet for provision of additional truck maneuvering area; (c) 1,122 square feet for provision of additional residential open space; and (d) 2,528 square feet for balconies and recessed glass areas on the facade. The total requested FAR to be excluding in the PUD application was 9,742 square feet. Subsequent to the public hearing and prior to the closing of the record, the applicant withdrew its request for excluding 1,122 square feet for the provision of additional residential open space. The applicant, therefore, requested an exclusion from FAR calculations of 8,620 square feet.

15. Joseph R. Schuble, Real Estate Manager-Broker and Executive Vice-President of Dreyfuss Brothers, Inc., testified on behalf of the applicant concerning the projects housing program and housing market conditions. He pointed out that demand for rental units exceeds housing supply, that the vacancy rate is less than one percent, that there is a scarcity of developable land, the effect of rent control laws and the fact that only 563 non-subsidized apartment units have been built in the last five years. He defined the "Market" as rent level that a willing purchaser would pay, having a free choice, and owner having freedom to determine level of rent. He also testified that the average income to qualify for a rental unit would be approximately \$26,000 annually and for a condominium, \$40,000. It was his belief that housing at all levels will find a market.
16. Joseph Knoll of Krooth and Altman, testified on behalf of the applicant concerning the HUD 221(d)(4) program, its cost limitations and the various guidelines as they related to the subject project. He also testified that tandem money was available and good until October, 1981, at the rate of 7½ percent for forty years, and that alternatives to rental are condominium or cooperative units.
17. Richard Geigengack, architect for the applicant, testified that the overall FAR of the proposed development does not exceed 3.0. The commercial space in the project will not exceed 2.0 FAR and the residential space will occupy the balance of the 3.0 FAR. Garage parking will be provided at one space per residential unit, for a total of sixty-four spaces, and 140 additional spaces for the commercial/retail use. The total number of spaces planned in the development is 204. Access to the underground parking garage, in which all 204 spaces will be located, will be from Wisconsin Avenue. The loading facilities will be located three feet below grade with entrance off Wisconsin Avenue, adjacent and parallel to the parking garage entrance. Both these entrances are on the southernmost edge of the site. Emergency access will be provided through the court system from both 37th Street and Wisconsin Avenue.
18. Doyle Clear, transportation consultant for the applicant, testified that there would be no adverse impact on traffic circulation due to the proposed development. The Commission so finds.

19. Walter Arensburg, city planner for the applicant, testified concerning the applicant's compliance with current city planning policies, land use and zoning patterns, and fiscal benefits the proposed PUD would generate for the city. He also described how the project was sensitive to protecting the environment, energy conservation and historical preservation objections. Mr. Arensburg stated that the project did not circumvent the Zoning Regulations nor was it inconsistent with the comprehensive plan or development plans and policies of the District. The Commission so finds.
20. The Office of Planning and Development, by report dated November 17, 1980, and by testimony at the public hearing, recommended that the Zoning Commission approve the preliminary application for a Planned Unit Development for the following reasons:
 - a. The project is of exceptional merit and in the best interest of the city;
 - b. The project conforms with the city's goals and objectives, enhances the neighborhood, advances the city's land use policies and provides a living and working environment for future occupants with superior amenities than can be provided by applying the matter-of-right provisions of the Zoning Regulations to this site;
 - c. The application is consistent with the intended purposes of the Planned Unit Development process;
 - d. The applicant has demonstrated good design sensitivity by integrating both the building height and scale of development with that of the commercial uses fronting on Wisconsin Avenue, as well as the residential community located adjacent to this site on both 37th Street and the Hall Place alley;
 - e. The use of courts provides light and air for the office, residential and commercial uses, assists in opening the pedestrian passageway which provides an improved environment for both project residents and the general public, reduces the scale and massing of the complex and provides a unique opportunity to take full advantage of natural sun light and solar heating;

- f. The proposed project conforms to the general planning concepts for the development of this area of the city;
- g. The relationship of the mixed-use of retail, office and multi-family development is an innovative approach that establishes an effective and exciting transition which links and buffers the Wisconsin Avenue commercial corridor with the low scale residential uses along 37th Street;
- h. The exclusions from FAR for the pedestrian walkway, additional truck maneuvering area, and additional open space are justified under the PUD process.

The Commission concurs with the reasoning of the Office of Planning and Development. The Office of Planning and Development recommended that certain standards, guidelines and condition be applied to the approval.

- 21. The D.C. Department of Transportation (DOT) by memorandum dated November 26, 1980 to the Office of Planning and Development, raised no objection to the proposed development in terms of traffic and transportation impacts and policy. The DOT found that the trip generation rates developed by the applicant's traffic consultant to be comparable to rates normally developed by DOT in determining traffic impacts. The DOT approved the exclusion of an exit onto 37th Street thereby placing all vehicular traffic on Wisconsin Avenue and found this to be a positive impact because it relieves the burden on the residential streets adjacent to the site. The DOT also concluded that the proposed development will not measurably change the level of service of the nearby street intersections and that the parking in the proposal is adequate for the project, dependent upon assurance by the applicant that the parking spaces are appropriately located. The DOT conditioned its approval on the preparation of, in the second stage application, a parking allocation and operations plan and further justification of the traffic "gaps" on Wisconsin Avenue. The Commission concurs with the findings of the DOT.
- 22. The Fire Department, through the report of the Office of Planning and Development, indicated that it had no objection to the proposed development and that the proposed development will have no adverse impact on the operations of the Fire Department.

23. The Department of Environmental Services, through the report of the Office of Planning and Development, indicated that water and sewer facilities are available, or will be installed, for service to the subject project. These facilities should be adequate for normal service and a letter of commitment for those services has been issued.
24. The Department of Housing and Community Development (DHCD), by memorandum dated November 24, 1980, to the Office of Planning and Development, indicated that it had no objections to the approval of the first stage PUD application or the change of the R-3 zone to D/C-2-A. The DHCD specifically approved the pedestrian passageway from 37th Street to Wisconsin Avenue and the careful scaling-down of the residential portion of the project. In addition, DHCD found the project to complement, and be sensitive to, the neighborhood by including varied heights, the location of the courts, the liberal use of balconies, the location of the service area, the use of brick for exterior material, and the concentration of vehicular traffic on Wisconsin Avenue. DHCD also indicated that the provision of rental units on this site would be consistent with the housing policies of the District of Columbia and would serve a pressing housing need. The Department reserved judgement, pending the submission of more information, on the applicant's proposal for HUD 221(d)(4) financing.
25. Advisory Neighborhood Commission 3B appeared as a proponent of the application and recommended that the following points be imposed as conditions to approval:
 - (a) that the project include more two and three-bedroom apartments;
 - (b) that the approval be conditioned on the availability of HUD mortgage insurance and the construction of rental housing; and
 - (c) that incentive be given to the project's residents to use the underground parking facilities.

The ANC stated that the applicant had provided ample opportunity for community review and discussion.

26. The Glover Park Citizens Association testified in support of the application. The Association listed the concerns it had addressed with the applicant in the planning process. It stated that some of these concerns have been resolved and some design changes were specifically incorporated at the Association's request. The Association conditioned its support on continuing the dialogue with the developer during the second stage PUD application.

27. In response to the issues and concerns of ANC-3B and the Glover Park Citizens Association, the Commission finds that the applicant has met its burden to demonstrate the intent to develop a quality project which would be in character with the surrounding neighborhood. The Commission has given great weight to the issues raised by the ANC and the Glover Park Citizens Association. As to the ANC concern regarding the provision of more two and three-bedroom units, the applicant has agreed, in a supplemental submission prior to the closing of the record, to increase the number of two-bedroom units in the project. The Commission will condition approval of this application to require a minimum of ten percent of the units to have two bedrooms. As to the ANC concern regarding the provision of rental housing as a condition for approval, the Commission finds that the applicant will be unable to proceed with the HUD application or further zoning requests if such a condition is imposed. The Commission finds as an alternative that the applicant's offer to set aside twenty percent of units to be sold as moderate priced dwelling units, if rental housing is unable to be achieved, as an adequate response to the ANC's and the District's concern for provision of moderate priced housing. As to the ANC's concern that incentive be given to the apartment residents to utilize the underground parking facilities, the Commission finds the number of spaces allocated to the apartments to be adequate to meet the demand needed for residential units. Some of the additional concerns raised by the Citizens Association are addressed by further conditions in this order.

CONCLUSIONS OF LAW

1. The planned unit development process is an appropriate means of controlling development of the subject site, since control of the use and site plan is essential to insure compatibility with the neighborhood.
2. The development of this PUD carries out the purposes of Article 75 to encourage the development of well-planned residential development which will offer a variety of building types with more attractive and efficient overall planning and design without sacrificing creative and imaginative planning.

3. Approval of the application would be consistent with the purposes of the Zoning Act.
4. The proposed application can be approved with conditions which would insure that development would not have an adverse effect on the surrounding community.
5. The approval of the application would promote orderly development in conformity with the entirety of the District of Columbia zone plan as embodied in the Zoning Regulations and Maps of the District of Columbia.
6. The Zoning Commission has accorded to the Advisory Neighborhood Commission, the "great weight" to which it is entitled.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein the Zoning Commission hereby orders APPROVAL of the first-stage application for a planned unit development for Lots 538, 422, 421, 388, and 387 in Square 1300, fronting on Wisconsin Avenue and 37th Street, N.W., subject to the following guidelines, conditions, and standards:

1. The applicant shall submit with the application for second-stage approval of the PUD an application for rezoning the entire property to D/C-2-A.
2. The final design of the project shall be based on the plans submitted as part of the first stage application, and revisions thereto as submitted to the record, marked as Exhibits 44 and 49C of the record as modified by the guidelines, conditions and standards contained in this Order.
3. The overall density of the Planned Unit Development shall not exceed a floor area ratio of 3.0. The commercial component of the proposed development shall not exceed a floor area ratio of 2.0 and the residential component shall occupy the balance of the total of 3.0. The maximum number of residential dwelling units shall be 64. A minimum of ten percent of the total number of dwelling units shall have two bedrooms.

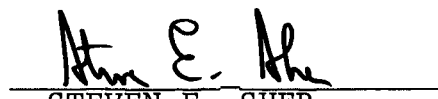
4. The maximum height of the building component which fronts on Wisconsin Avenue shall not exceed 65 feet excluding roof structures. The top floor of the Wisconsin Avenue component shall be set back from the north and south walls of the main part of the building as shown on the revised elevation marked as Exhibit No. 49c. In addition, the top floor of the Wisconsin Avenue component shall be set back from the front wall of the building for a depth of one bay, approximately twenty feet. The maximum height of the middle component excluding roof structures and the maximum height of the building component fronting on 37th Street shall not exceed the heights as indicated in the plans submitted in the application marked as Figure 18 of Exhibit No. 44 of the record.
5. The height of any roof structures to be included in the project shall not exceed 18 feet, 6 inches above the level of the roof upon which they are located. The floor area ratio for all roof structures shall not exceed 0.37. The applicant shall restudy the design of all roof structures, with the goal of reducing such structures to the minimum necessary height and size. The plans submitted with the second stage application shall clearly indicate the material to be used for the roof structures.
6. The percentage of the land devoted to courts, open space and landscaped areas shall be in accordance with testimony and documentation received during the public hearing on this application.
7. Use of the property shall be limited as follows:
 - a. The eastern-most building component, which fronts on Wisconsin Avenue, may be occupied by any commercial use permitted in the D/C-2-A District.
 - b. The center building component, which fronts on neither Wisconsin Avenue nor 37th Street, shall be used for residential uses only, except that the first floor may be occupied by retail uses as permitted in the D/C-2-A District.
 - c. The western-most building component, which fronts on 37th Street, shall be used for walk-up residential uses only.

8. The applicant shall redesign the facade of the building on 37th Street, so as to relate more closely to the design of the existing townhouses to the south and north, and so as to minimize the visual impact of the size and appearance of the pedestrian passage through the building.
9. The applicant shall provide a pedestrian passage through the site from 37th Street to Wisconsin Avenue as shown on Figure 11 of Exhibit No. 44. Any area included in this pedestrian passage shall not be charged against the gross floor area of the building.
10. A maximum of 204 off-street parking spaces shall be provided for the total project in a 2 1/2 level underground parking structure. Vehicular access to that structure shall be by a single entrance on Wisconsin Avenue. Emergency vehicular access to the site shall be through the pedestrian passageway. At least one parking space shall be allotted for each residential dwelling unit.
11. The applicant shall develop a parking allocation and operations plan and file it with the second stage application.
12. The applicant shall provide off-street loading facilities as shown on Figure 11 of Exhibit No. 44. Access to such loading facilities shall be from a single access point from Wisconsin Avenue, only.
13. The applicant shall submit as part of the second stage application a detailed plan indicating the design treatment, including building materials and landscape treatment, of the retaining wall along the southern edge of the property line so as to ensure that an adequate buffer is provided along the Hall Place alley and the adjacent properties.
14. The applicant shall indicate as part of the second stage application, how the landscaped terrace over the underground parking area will be developed and how the garage and loading areas will be designed so as to reduce the adverse aesthetic impacts associated with such service entrances.
15. The applicant shall identify as part of the second stage application, how the interior plaza areas will be treated, landscaped, illuminated, and designed so as to provide for a safe, inviting environment. The applicant shall include an increased number of trees and other shrubbery in the interior plazas.

16. The second stage application shall include design parameters which would regulate commercial signage within the development.
17. The applicant shall submit in the second stage application a detailed treatment of the north wall of the subject building.
18. The second stage application shall include detailed architectural and landscaped plans for the entire project as required by Section 7501.
19. The applicant shall submit with the second-stage application a further detailed study of the availability of gaps in traffic on Wisconsin Avenue to accommodate left turns, as outlined by the report of the Department of Transportation marked as Exhibit No. 45 of the record.
20. The first stage approval shall be valid for a period of one year from the effective date of this Order.

Vote of the Zoning Commission taken at the public meeting held on December 11, 1980: 4-0 (Commissioners Theodore F. Mariani, Walter B. Lewis, John G. Parsons and George M. White to approve - Commissioner Ruby B. McZier, not voting not having participated in the case).


THEODORE F. MARIANI
Chairman
Zoning Commission


STEVEN E. SHER
Executive Director
Zoning Secretariat

This order was adopted by the Zoning Commission at its public meeting held on January 8, 1981 by a vote of 3-0 (Commissioners Walter B. Lewis, George M. White, and Theodore F. Mariani, to adopt - Commissioners Ruby B. McZier not voting not having participated in the case and John G. Parsons not present not voting).

In accordance with Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission of the District of Columbia, this order is final and effective on 23 JAN 1981.